

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-10134-C

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STAN J. CATERBONE,

Interested Party-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

Before: WILLIAM PRYOR, JORDAN and JULIE CARNES, Circuit Judges.

BY THE COURT:

In light of the responses to the jurisdictional question, we DISMISS this appeal for lack of jurisdiction. Stan J. Caterbone, proceeding *pro se*, has appealed from an interlocutory order denying his motion for leave to file an amicus brief in a pending criminal case brought by the government against Esteban Santiago-Ruiz. We lack jurisdiction because Caterbone does not appeal from a final order or an order that is immediately appealable under a statute or jurisprudential exception. *See* 28 U.S.C. §§ 1291, 1292; *CSX Transp., Inc. v. City of Garden City*, 235 F.3d 1325, 1327 (11th Cir. 2000) (noting the general rule that this Court's jurisdiction is limited to appeals from final orders under § 1291 or interlocutory orders appealable under statute or jurisprudential exception).

In addition, only a litigant who is aggrieved by a judgment or order may appeal it. *Wolff*

v. Cash 4 Titles, 351 F.3d 1348, 1353 (11th Cir. 2003). A non-party ordinarily lacks standing to appeal an order from that case, and even parties may lack standing to appeal trial court rulings that do not affect their interests. *Id.* at 1354. Standing requires a person to have suffered an injury-in-fact that is concrete and particularized, actual or imminent, and not conjectural or hypothetical. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). Here, the order denying Caterbone's request does not affect his interests in a way sufficient to confer standing to appeal. *See Lujan*, 504 U.S. at 560; *Wolff*, 351 F.3d at 1353.

All pending motions are DENIED as moot. No motion for reconsideration may be filed unless it complies with the timing and other requirements of 11th Cir. R. 27-2 and all other applicable rules.

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Appeals from the United States District Court
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Before: WILLIAM PRYOR, JORDAN and JULIE CARNES, Circuit Judges.

BY THE COURT:

Stan J. Caterbone's motion for reconsideration of our June 4, 2018 order dismissing this appeal for lack of jurisdiction is DENIED. All other pending motions are DENIED as moot.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 17-60022-Crim-BLOOM

UNITED STATES OF AMERICA,

v.

ESTEBAN SANTIAGO- RUIZ,

Defendant.

ORDER ON APPLICATION FOR AMICI CURIAE BRIEF

THIS CAUSE is before the Court upon a *sua sponte* review of the record. On December 1, 2017, Stanley J. Caterbone and Advanced Media Group¹ ("Amici Curiae") filed documents *pro se* with the Court styled as an "Application for Amici Curiae Brief." ("Applications"). ECF Nos. [76] and [77]. The stated purpose of the Applications are that it was filed "in support of Estaban [sic] Santiago Ruiz [sic] Defense." *Id.* As part of the Application submission, Amici Curiae submitted a DVD because "[t]he printing of the DVD materials are of the utmost importance to this Amicus Brief and it would be cost prohibitive to print in paper format." *Id.* The Court has carefully reviewed all the information submitted by Amici Curiae, including the electronic information contained on the DVD, and finds as follows:

"Amicus curiae" means "friend of the court."

A person with strong interest or views on the subject matter of an action may petition the court for permission to file a brief, ostensibly on behalf of a party but

¹ The rule is well established that a corporation is an artificial entity that can act only through agents, cannot appear *pro se*, and must be represented by counsel. *Commercial and Railroad Bank of Vicksburg v. Slocumb*, 39 U.S. (14 Pet.) 60, 10 L.Ed. 354 (1840). As the Court is denying the Application on the merits, it declines to consider the implications of this prohibition here.

CASE NO. 17-60022-Crim-BLOOM

actually to suggest a rationale consistent with its own views. BLACK'S LAW DICTIONARY 75 (5th ed. 1979).

News & Sun-Sentinel Co. v. Cox, 700 F. Supp. 30, 31 (S.D. Fla. 1988).

While Federal Rule of Appellate Procedure 29 provides for the filing of amicus curiae briefs, the Federal Rules of Civil Procedure lack a parallel provision regulating amicus appearances at the district court level. "District courts have inherent authority to appoint or deny amici which is derived from Rule 29 of the Federal Rules of Appellate Procedure." See *Mobile Cnty. Water, Sewer & Fire Prot. Auth., Inc. v. Mobile Area Water & Sewer Sys., Inc.*, 567 F. Supp. 2d 1342, 1344 (S.D. Ala. 2008). "Inasmuch as an amicus is not a party and 'does not represent the parties but participates only for the benefit of the court, it is solely within the discretion of the court to determine the fact, extent, and manner of participation by the amicus.'" *Cox*, 700 F.Supp. at 31. (citation omitted). The decision whether to allow a non-party to participate as an amicus curiae is solely within the broad discretion of the Court. *Resort Timeshare Resales, Inc. v. Stuart*, 764 F.Supp. 1495, 1500 (S.D.Fla.1991); *Ellsworth Assocs., Inc. v. United States*, 917 F.Supp. 841, 846 (D.D.C.1996).

To be sure, the instant case is of public importance. However, this case is a pending criminal trial.² As such, it is noteworthy that there are specific constitutional protections that exist in criminal cases that do not otherwise apply to parties in civil actions. See *United States v. Ward*, 448 U.S. 242, 248 (1980). Moreover, Mr. Santiago-Ruiz is represented by "learned counsel" as required by 18 U.S.C. §3005; as well as three other qualified and experienced

² It is rare for amicus curiae briefs to be filed in criminal cases even at the appellate level. "Over the five years from 2003-2007, only 12 amicus curiae briefs were filed in criminal cases." P. Stephen Gidierre III, *The Facts and Fictions of Amicus Curiae Practice in the Eleventh Circuit Court of Appeals*, 5 SETON HALL CIRCUIT REV. 1, 18 (2008).

CASE NO. 17-60022-Crim-BLOOM

attorneys from the Federal Defender's Office. There has been no suggestion or reason to believe that appointed counsel cannot or will not adequately represent Mr. Santiago-Ruiz. There is no indication that counsel requested or encouraged assistance from the Amici Curiae.

Further, the Court does not find the participation of Amici Curiae would be desirable or beneficial to these proceedings. Courts typically grant amicus status where the party "contribute[s] to the court's understanding of the matter in question" by proffering timely and useful information. *Conservancy of Southwest Florida v. U.S. Fish and Wildlife Serv.*, No. 2:10-cv-106, 2010 WL 3603276 at *1 (M.D.Fla. Sept. 9, 2010). There is nothing in the Applications to indicate that the Amici Curiae offers "timely or useful information" relevant to the instant case.

It is **ORDERED AND ADJUDGED** as follows:

Stanley J. Caterbone and Advanced Media Group's Applications for Amici Curiae Brief, ECF Nos. [76] and [77], are **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, on December 4th, 2017.



BETH BLOOM
UNITED STATES DISTRICT JUDGE

cc: counsel of record
Stanley J. Caterbone
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**Additional material
from this filing is
available in the
Clerk's Office.**